

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
NOV 09 2015
Clerk, U.S. District Court
District Of Montana
Missoula

JOSEPH EDWARD LAWRENCE,

Petitioner,

vs.

STATE OF MONTANA,

Respondent.

CV 15-77-M-DLC-JCL

ORDER

Petitioner Joseph Edward Lawrence (“Lawrence”) moves this Court for a writ of mandamus compelling the 21st Judicial District Court of Montana to grant him credit for time served. United States Magistrate Judge Jeremiah C. Lynch entered his findings and recommendations on July 10, 2015, recommending that Lawrence’s petition be denied because this Court does not have jurisdiction to issue writs of mandamus to state courts.

On July 22, 2015, Lawrence filed an “objection” to Judge Lynch’s findings and recommendations. However, upon review of this document, it is apparent that Lawrence is not challenging Judge Lynch’s findings and recommendations. Instead, Lawrence explains in this “objection” that he will pursue his “writs of

mandamus with the Montana Supreme Court.” (Doc. 5 at 1.) Because Lawrence did not expressly challenge Judge Lynch’s findings and recommendations in his objection, he has thus waived his right to de novo review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). The Court adopts Judge Lynch’s findings and recommendations in full.

The Court agrees with Judge Lynch that a federal court has no jurisdiction to issue a writ of mandamus to a state court. *See Demos v. U.S. Dist. Ct. For E. Dist. of Washington*, 925 F.2d 1160, 1161 (9th Cir. 1991) (stating that the Ninth Circuit lacks jurisdiction to issue a writ of mandamus to a state court). As such, Lawrence’s petition for a writ of mandamus will be dismissed. Lawrence also moves to proceed in forma pauperis. However, because the petition in this matter will be dismissed, this motion will be denied as moot.

Accordingly, IT IS ORDERED that:

(1) Judge Lynch’s findings and recommendations (Doc. 3) are ADOPTED IN FULL.

(2) Lawrence’s petition for a writ of mandamus (Doc. 1) is DISMISSED.

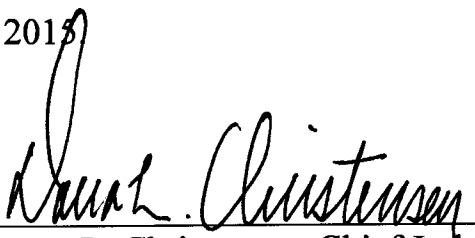
(3) Lawrence’s motion for leave to proceed in forma pauperis (Doc. 4) is

denied as moot.

(4) The Clerk of Court is directed to enter, by separate document, a judgment of dismissal.

(5) This Court CERTIFIES, pursuant to Federal Rule of Appellate Procedure 24(a)(4)(B), that any appeal from this order would not be taken in good faith.

Dated this 9th day of October, 2015



Dana L. Christensen, Chief Judge
United States District Court